

JANICE BOWEN, et al., )  
)  
Petitioners, )  
)  
v. ) No. 4:09CV1308 RWS  
)  
ROBERT G. O'BLENNIS, )  
)  
Respondent. )

This matter is before the Court on petitioners' motions to proceed in forma pauperis. Based on the financial affidavits included with the motions, the Court finds that petitioners are indigent. As a result, the Court will grant the motions.

Pursuant to 28 U.S.C. § 1915(e), the Court must review any petition filed in forma pauperis and dismiss it if it is frivolous, malicious, or fails to state a claim upon which relief can be granted.

Petitioners are Social Security claimants currently pursuing proceedings before the Social Security Administration (the “Administration”). Robert O’Blennis is an administrative law judge (“ALJ”) with the Administration. In their petition for writ of mandamus, petitioner’s claim that defendant has improperly withheld from the Administration’s electronic record the names and partial social security numbers of persons who are not parties to petitioners’ proceedings. Defendant decided that the

information was inappropriate for the electronic record because the Administration has a policy against disseminating personally identifiable information; defendant has kept a copy of the information *in camera*, so that it is available only to Administration or Court personnel. Petitioner's believe that inclusion of this information in their electronic files is necessary to show that defendant is prejudiced against certain classes of social security claimants, which include themselves.

Title 28 U.S.C. § 1361 states: "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." "In order for mandamus to lie the 'duty owed to the plaintiff' must be ministerial and a positive command so plainly prescribed as to be free from doubt." Keeny v. Secretary of Army, 437 F.2d 1151, 1152 (8th Cir. 1971).

Petitioners argue that defendant has a legal duty to include the information in the electronic file under case law and the Code of Federal Regulations. The Court has reviewed the cases and provisions cited and finds no duty obligating defendant to include the names and partial social security numbers of non-parties in the Administration's electronic files rather than *in camera*. As a result, petitioners are not entitled to mandamus relief under Keeney, and the Court will dismiss this action under 28 U.S.C. § 1915(e) or for lack of jurisdiction.


Accordingly,

**IT IS HEREBY ORDERED** that petitioner's motions to proceed in forma pauperis are **GRANTED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice.

An Order of Dismissal will accompany this Order.

Dated this 25th Day of August, 2009.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE